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A

L E T T E R

TO THE

AUTHOR OF A PAMPHLET

ENTITLED

FREE PARLIAMENTS.

Almon, J.

K

Nolite finere nos cuiquam fervire, nisi *vobis universis*, quibus et
possumus et debemus.

L. CRASSUS ad Pop. Rom.

L O N D O N,

MDCCLXXXIII.

L E T T E R

TO THE

ATTENTION OF A PARLIAMENTARY

COMMISSIONER

THE



LONDON

PRINTED

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S I R,

IT is always unpleasant, and seldom of much avail, to enter into a controversy with an *anonymous* writer; and, as your work has not excited in me a very ardent desire to learn your *name*, or to seek your acquaintance, I should not have troubled you with this address, if I had not frequently remarked, that the *claim of dogma and austerity of assertion* (to describe your own manner in your own language) are apt to impose upon readers and hearers, who will not give themselves the trouble to weigh arguments and look

A 2

into

into authorities. What may be your *station* and *character*, which *it will be material*, as you intimate in your *private* address to the *publick* (which you learnedly call a *proem* or *prolegomena*) to disclose at some future time, or what may be the situation and importance of *Scratch Hall*, where you *amuse* yourself with reading pamphlets in the summer, and with writing them in the winter, I am as little anxious to know; but your lecture upon *copyholds* evidently shows, that you are not acquainted with *Westminster Hall*, as some of your panegyrists would insinuate.

To assert a plain truth, that the fruit of your lucubrations last *Christmas* betrays in parts the *grosslest ignorance*, and contains the *falsest reasoning*, would be following an example, which of all others I am least inclined to follow, namely *your own*, by substituting vain abuse in the place of argument. I will not, therefore, call in question your *veracity*, nor treat you as a *whimsical* or a *malignant*, a *misanthrope* or a *drone*, nor brand you with any other *contemptuous* or *injurious* name, nor arraign the *purity* of your intentions, nor advise you to write your next pamphlet in a *madhouse*, all which flowers of rhetorick are scattered over your work with a liberal hand. As to your *opinions*, I leave you unenvied in the full enjoyment of them, and will not even quarrel with the *title* of your book; for, if you chuse to consider as *FREE* an assembly *formed*, as you admit, *by corruption*, and as *abject and slavish* a parliament *fairly chosen by the independent part of the*
whole

whole community, there is no arguing with you; and you must be left at perfect liberty to call black white and white black; though, if you mean to be understood, it may not be amiss to instruct your readers in your *reformed* vocabulary.

Part of your *title-page*, indeed, requires a stricture, as it might mislead those, who do not know or recollect, that the sentence *NOLUMUS LEGES ANGLIÆ MUTARI* was no *barons' motto*, as you call it, but a glorious exclamation of the parliament of *Merton*, when the question before them was, *whether the free laws of England should be superseded by the tyrannous or unreasonable aphorisms of imperial and pontifical Rome*: it ought, however, to be inscribed, as a motto, upon the arms of every *Englishman*; and I contend chiefly against your application of it; for, if *the demand of the petitioners* be, as you represent it, *to reverse all the rules of our ancestors*, instead of *enforcing and establishing* those rules, I give up their cause, and have nothing to urge in their favour.

The object of your pamphlet was, to convince the publick, who have heard so much against the present mode of representation, that *a great deal might be said on the other side*: now, without remarking, that *a great deal may be said* by loquacious men on either side of any question, especially with the help of a few sophisms and misrepresentations, I will engage to convince even you, if you have that candour, which fair disputants ought to possess, that *much of*

the great deal, which you have been pleased to say, is founded on misinformation and error. I must, however, begin with declaring, that I am an enemy to all *speculation*; that I hate the name of *theory* as opposed to *practice*; that I have no *visionary* plan; that I have formed my opinion of men, whatever it may be, not by reading about them, but by *living among them*; that I incline to think *Virtue*, as BRUTUS confessed in his last moments, to be *an empty name*; that I reject every idea of *improving* the constitution; that I am the slave of *no party*; and that I will not be responsible for the notions of *other* speakers or writers, how much soever I may venerate or esteem them.

In the first place, I can offer nothing in defence of the doctrine, if any sober man has broached it, that *all acts of a parliament chosen for a longer term than one year are invalid*; nor did I ever hear such doctrine advanced in conversation, or see it in writing. Many virtuous and learned men, indeed, have warmly contended, that the statutes of EDWARD III. which required parliaments to be *annually* HOLDEN, required them, by those very words, to be *annually* CHOSEN; and, if writs be really extant for the election of a *new parliament in almost every year of that reign*, there can hardly be a clearer interpretation of those statutes, or a stronger proof, that *holden* and *chosen* were in those days considered as equivalent: but, not to rely merely on the authority of BLACKSTONE, whom
I name

I name with honour and veneration, the *preamble* to the *triennial* act, in the *sixth* of WILLIAM and MARY, seems to make a pointed distinction between those words; for it recites, that, “*by the ancient laws and statutes of this kingdom*, frequent parliaments ought “to be HELD, and that frequent and NEW parliaments “*tend very much to the happy union and good agreement of the King and people.*” Allow the wisdom of this preamble, which must operate strongly *ad verendum* at least, and I will, for my part, cheerfully resign all advantage, that may be derived from the acts of *Edward III.* and the practice of his reign; nor indeed, if those acts incontestably required a *new* election every year, would they demonstrate, that *annual* parliaments were a *part of our old constitution*, unless it could be proved, that they were declaratory of the *common law*.

Permit me, nevertheless, to retaliate a little on the subject of *false citations* and *careless reading*, and to ask, where you met with a statute of 2 RICH. II. nu. 28.; for, observing by the way, that laws are not cited by the *numero*, I must inform you, that nothing about parliaments is to be found in the statutes made at *Gloucester* and *Westminster* in the *second* year of that prince, and that the 5 RICH. II. st. 2. ch. 4. which you probably mean, only requires *every person to attend the parliament upon summons*: “there can be no “doubts raised upon the subject, because the thing “is perfectly clear”; but, if you have *laboured hard*
to

to impose upon yourself, it will be *impossible*, you say, *to undeceive you*; and I must only, as I hope to do without much labour, prevent your imposing upon others. Nor do I conceive myself bound to support the opinion, that parliaments in the reigns of our early kings sate no longer than a *single session*; but the writings of that zealous friend to his country and to all mankind, Mr. GRANVILLE SHARP, will refer you to the authorities, on which that opinion is founded. Some few of those authorities I have myself examined, especially a case in the Year-book, 4 EDW. IV. 44. but I fairly own, that I am not convinced; and I think it a point of so little consequence, that I cannot give myself the trouble of verifying your references to *Cotton* and *Rymer*: your citation of a statute, which has no existence, would make me cautious of relying upon any authority, that you may cite. As to your beadroll of quotations from the *Journals of the Commons*, they are of too recent a date to affect the question; for we all know how much regard was paid to ancient laws, and popular rights, in the reigns of the TUDORS and the STUARTS!

It will be needless to follow you through your history of the *triennial* acts, or to vindicate the duke of *Buckingham*, who was unjustly sent to the Tower for asserting with great truth, that a prorogation for *fifteen* months was repugnant to every construction of the statutes for *holding a parliament once at least*
in

in *twelve* months; but I beg to dispute the soundness of the *logick*, with which you close your observations on *this disagreeable thesis*; since it by no means follows that, if the people had a *right* to an *annual* election, the king would have no right to dissolve the parliament, and convoke a new one, *in the course of the year*: you may, therefore, take back your *alternative*, and correct your *table of contents* in your next *copious* advertisement.

Whether I shall be blamed for making too many concessions, I do not know; nor (as I seek nothing but truth) do I greatly care; but I freely concede, that, if the *same* enormities were likely to be practised, the *same* expenses incurred, the *same* licentiousness fomented, and the *same* crimes committed, every *three* years or every *year*, which we see with indignation every *seven* years, I should agree with ADDISON, that “ a *septennial* bill” (or a *decennial* one, if you please) “ would tend to make us not only a more “ safe, a more flourishing, and a more happy, but “ also a more virtuous people.” I prefer, however, *triennial* to *septennial*, and *annual* to *triennial*, elections for the following reasons :

First, because I am persuaded, that, when a seat in parliament shall become *less an object* to ambitious, artful, and wealthy men, there will be proportionably *less idleness, riot, intemperance, and immorality* of all kinds, and that the very source of corruption will soon be stopped.

B

Secondly,

Secondly, because our unnatural feuds and animosities are strong enough at present to last for *seven* years, and would, in my opinion, be much appeased and weakened by *frequent well-ordered* elections.

Thirdly, because, if parliaments were of ever so short duration, they would find ample time to transact all *necessary* business, and little, if any, for mere loquacity or empty railing; there would be few contested elections to settle; and publick affairs would be less obstructed by the anxiety of the members to secure their future seats.

Lastly and principally, because, in *seven*, or in *three* years, multitudes of *British* subjects must become indisputably qualified to vote, by *majority*, *descent of property*, or *acquisition* of it by *marriage*, *devise*, *settlement*, or *promotion*, who must be bound for a long time, unless elections be *annual*, by laws to which they gave no assent; which is repugnant to the spirit of the constitution.

These are my sentiments; and, opinion against opinion, they ought to have as much weight as yours, while we both fight with visored helmets; but I confess, that no change in the *duration* of parliaments will destroy the monster *Corruption*, unless the right of suffrage be constitutionally extended; and this brings me to your leading doctrine, your main argument, which I oppose, *lance to lance and horse to horse*, and on the confutation of which I would cheerfully risk any little reputation, with which the publick may at any time hereafter honour me.

I am

I am one of *those people*, Sir, who *will not be pleased to allow*, but who most positively deny, what you elegantly call “ a very important fact in the *construction* “ of our parliamentary constitution,” that “ *representation* originated, not in the *justice* of the “ thing itself, but in the policy of HENRY III, who “ gave and authorised it.”

REPRESENTATION had its origin from the *necessity* of an appearance by *deputies*, when the nation grew too populous for *every free man* to appear *in person*; but the general right of debating and voting in the great national assembly, either in person or by delegates freely chosen, was *primeval*, if I may so call it, in the GOTHICK polity, from which our form of government was derived.

It is exceedingly to be regretted, that the learned, acute, and elegant writer of *An Historical Dissertation concerning the Antiquity of the ENGLISH Constitution*, Dr. GILBERT STUART, has not, at least to my knowledge, exhibited, in a distinct work, a *connected view of several direct arguments, which prove a representation of the Commons before 49 HEN. III.*; but we may so perfectly rely on his veracity, diligence, and sound reasoning, that we may consider the proof as actually given from his bare declaration, that he was provided with it. Let me refer you to the *two last sections* of his dissertation; and you will have reason to thank him for weeding your mind from the incorrect ideas, with which it is disgraced.

There is decisive authority, that *representation* was known to the ancient GERMANS, from whom the Saxons drew their lineage and their government ; and among whom, says TACITUS, *on smaller concerns the chief men deliberated, on greater affairs, ALL : but all, according to GROTIUS, meant the national council itself, to which fit persons were deputed from every district and from every class.* I cite these great authors in *English* ; for your quotation of the *barons motto* and of *Magna Charta* is but a feeble proof, that you could understand the originals.

Now, if you believe, that so fierce and warlike a race as the SAXONS, inured to arms and flushed with conquest, resigned the fundamental right of their ancestors, when they settled in our island, you have, it must be owned, a happy facility in believing what you wish to be true ; but history confirms what reason suggests, and both concur in supporting Dr. Stuart's assertion, that, " as every free man in GER-
 " MANY assembled in person at the councils of his
 " nation, or voted for the representative of his district,
 " so the same conduct was observed in ENGLAND,
 " and that, from the time when the Saxon kingdoms
 " were united, the Commons appeared generally in
 " the way of *representation*." Will you contend, that the victory over HAROLD " gave a new birth to the
 " constitution, and obliterated all traces of more an-
 " cient customs ?" Will you derive from the NORMAN princes the existence of *British* liberty ? Will you in-
 sist,

sist, that *Simon de Montfort* was the *father* of our parliaments? Excellent historian! Admirable genealogist! Consistent reasoner! With the same breath, with which you pour forth these *truths*, you admit, that *William I.* “ called a PARLIAMENT, of whose “ laws mention is made, after he had sitten four “ years on the throne.” So he did; and *as effectual a parliament*, if chief justice *HALE* had any wisdom, *as ever sate in England*; but, so far was the conquest from superseding all ancient customs, that the great business of *this very parliament* was to ascertain and declare the laws of *EDWARD the Confessor*, which the nation always approved; and so far was *representation* from being *unknown in those times*, that *this very parliament* consisted of *representatives chosen*, says *HOVEDEN*, in every county*. Really, Sir, you are so easily confuted, and can make so little resistance, that there is neither pleasure in the contest, nor honour in the victory; but let the fight be a fair one: no misrepresentations! no unlawful arms!

You assert, that the petitioners demand *an alteration in the fundamental constitution of parliament*, namely, *the the right of voting be extended to all the INHABITANTS of the kingdom, whatever be their degree or condition*. Sir, they demand no more, than *a recognition of the fundamental principles of the constitution*, which extend the privilege of voting to *all independent subjects of Britain*, or to those, *who, being furnished in*

* See *Ha. H. C. L., Chap. V.*

their

their own right with the necessaries of life, may be independent if they please.

In most popular states, and in all that have been durable, *some* qualification with regard to *property* in voters has ever been required. Among the old *Germans*, the venerable planters of our noble system, that qualification was a portion of *land*, sufficient for *the maintenance of its occupier*, with *a shield and spear to defend it*. Had this nation been, like the *Arabs*, both *pastoral* and military, a certain number of *beasts* would perhaps have been requisite; and had it been purely *agricultural*, the voters would have been qualified by possessing both *cattle* and *implements of husbandry*. As manners vary, the *state and nature of property* are liable to vicissitudes; but the *principle*, which is fixed, and by which the constitution must always be rectified, should ever be applied to the *state and nature of property* in all its varieties. Thus *personal* goods were held in little or no esteem during the *Saxon* polity and the early *Norman* reigns; but the *principle* remained and remains unshaken, that *every man, who could maintain himself by his property, had a right to vote*. Apply this principle to the *state of property* in our own *commercial* age, and the constitution manifestly requires, that not *copyholders* only (concerning whom we must have a word or two presently) but *lessees* for a *fixed* term, the proprietors of *stock*, and even *traders* of all kinds with a *certain* profit sufficient for *their maintenance*, should be admitted to a share in choosing those delegates,

delegates, to whom is intrusted the care of their fortunes, liberties, and lives. If this be not *demonstration*, as far as a moral, political, and historical point can admit of so high a proof, I never knew any proposition demonstrated. This application of the principle was made at different times, in a partial niggardly manner, by the erection of *boroughs*, and the grant of *chartered privileges* or *franchises*, as they are improperly called; but the claim of all free *Englishmen* being paramount those grants, it cannot in any degree be affected by them.

HENRY III. was, indeed, compelled by his victorious barons to summon representatives *justly and regularly*; but to *date* representation from that event is to *depart from the truth of History*; and, as to the statute of HENRY VI. which you are pleased to call *wise and salutary, founded on the best and purest principles of freedom, chaste in idea, and beneficial in practice*; I will only say at present, that, if a letter, which I have seen in manuscript, should ever appear in print, the publick will know the true motives and policy of that act, which the nation has so far improbated, that it has tacitly repealed the law, by not increasing the qualification with the decreasing value of money.

From my mode of reasoning you may clearly perceive my entire acquiescence in the opinion of Lord Cowper and Sir Joseph Jekyll, "that the right of suffrage is a distinguishing character *from the vulgar*, and conferred, as such, by the *common law*:"

but

but I consider none as *the vulgar* in this sense of the word, except those, who *cannot support themselves without being dependent on others, and consequently are not masters of their own wills.*

Here again I cheerfully make a concession (for which I may, perhaps, be censured) and frankly admit, that a man, who has *only forty shillings a year*, on which he cannot possibly subsist, and depends for all beside on the bounty of others, ought not, by the *spirit* of the constitution, to vote for a parliamentary delegate, *though he be a freeholder*; and, in return, you ought to allow, that every man, who can maintain himself comfortably and independently, is entitled to suffrage, although his income be merely *a personal annuity*. Truth also and candour should deter you from misrepresenting those, who labour to support the *DIGNITY of the PEOPLE*, by which they mean the *whole community*, or the *aggregate of free and independent men*; not, as it is basely insinuated, the *populace* or *rabble*. This is the true sense of the word in the ancient phrase *MAJESTAS POPULI*, the improper translation of which in *English* only gives occasion to sneer and quibble, and in the more modern phrase *VOX POPULI*, which *Machiavel* justly renders *la voce d'uno popolo*, or, *the voice of a whole nation*. This is the sublime and awful voice, which was heard at the Revolution, and was not heard of late, until the United thunders of *Washington* and *Rochambeau* obliged even the deaf to hear; and this is the voice, which

now calls aloud for a *reformation of parliament*, but never will be heard, unless other thunders should roar in BRITAIN; a calamity, which I pray Heaven to avert!

I come now to your wonderful episode concerning *copyholds*, and cannot (with the strongest desire to avoid harsh words) refrain from observing, that *all the powers of nonsense concentrated* would hardly equal the absurdity of your notions on that easy subject, from the *forty-sixth* to the *fifty-second* page of your pamphlet. Where, for the love of reason, could you learn, that *malice aforethought*, which is the *essence of murder*, were *words of course* in an indictment for that crime? Your cloudy head was thinking of the words *at the instigation of the devil*; but even *they* would not be merely *of course* in an indictment against yourself for the *murder of historical truth*, “in a pamphlet “ *value three farthings*, with a pen of *no value*, against “ the rights of the people, their happiness and dignity.”

Where could you learn, that *copyholds* were not liable to be sold by commissioners of bankrupt, when the statute of *Elizabeth* includes them by name, and requires the *assignees of a copyhold estate*, who are *vendees* within the act, to *compound with the lords of manors for their fines*? Since you cite BLACKSTONE with triumph on the subject of *annual parliaments*, could you not have opened for a moment the *second* volume of his Commentaries in the chapter of *modern tenures*?

C

There

There you would have been informed, that *copyholders* were originally *villeins*, and could not, therefore, *anciently* have had a right of suffrage consistently with the great *principle* of the constitution; that, in process of time, they recovered their liberty; that their *persons* have long been *enfranchised*; that they are *already*, without any other act being necessary, *emancipated* and independent of the lord, who is in truth little more than the conduit-pipe or mere instrument of conveyance with some pecuniary and casual advantages; in a word, that they are *substantially*, whatever be their *nominal* condition, as *free* as any landholders in the realm; and thus, *by an application of the permanent principle to the altered state of property*, they have now an equal title with *freeholders* to a due share in the legislature of the nation. As to the supposed danger of multiplying votes illegally, by fraudulently and collusively splitting a *copyhold* estate, a single clause, requiring the *admission* to have been made *twelve* months before the election, except in certain cases, would remove all inconvenience, not to insist on the sanction of *the elector's oath*, or to urge, that a *freehold* estate might be subject to similar abuse. Here I take leave of the *lawyer*, and return to the *politician*; observing first, that, as to *boroughs* and the opinion of lord CHATHAM concerning them, we ought certainly to venerate the name of so illustrious a statesman, but should neither approve one plan, because He approved it, nor reject another, because He rejected

rejected it. We are obliged to you for the parts, which you have published, of his fine speech; but I fairly own, that his idea of a *constitutional representation*, namely a representation of *the soil*, appears to me the wildest and falsest imaginable, bordering upon the ridiculous, and containing no flattering compliment to the representatives of *such a constituent*; and even his admired allegory, which you present to us in high relief with *Italicks* and *Capitals*, “that the limb, indeed, “is mortified, but that *amputation might be DEATH*,” will not bear a moment’s examination; for it may truly be retorted, that, “if *amputation MAY*, mortification *MUST*, be *death*, unless means be found “speedily to stop it.”

Your next quotation is from the Letters of JUNIUS, to which a terse *French* style and great asperity of invective, so pleasing to the malignity of man, have given a reputation far above their merit as constitutional tracts. You insinuate, that he will know you *by your style*, which he certainly will not imitate, on his return from *Asia*; but, whatever country detain him, if he be yet living, his opinions must be weighed by their own intrinsic gravity; and I suspect, that he misapprehended the question before us. The *right* of voters in boroughs, which I little expected to see called a *nugatory* right in such an argument, cannot be taken away, without a *robbery*, for any purpose of *improving* the constitution, nor does the constitution, indeed, require *improvement*: but the *form*

and *place* of voting may be changed without injustice, and the same persons allowed to give their free suffrage in the county at large.

Your own comparison of *boroughs* to the *specks on the sun* would be ingenious, if it were not borrowed; but it would be only ingenious, not solid: the apparent spots on the disk of the great luminary are no *blemishes* or *defects*; while *boroughs*, either commanded by the crown, inherited by the opulent, or open to publick sale, are abominations repugnant to the first elements of a well-ordered government.

I wished to avoid setting opinion against opinion, but cannot help declaring mine, that nothing would have been easier, in *the most popular mode* of election, than for the great CHATHAM, or his excellent son, *young in years, but in sage counsel old*, to have made their virtues and talents conspicuous, and consequently to have obtained the cheerful voices of their grateful and applauding countrymen. How else could TULLY, a plain esquire of *Arpinum*, or DEMOSTHENES, the son of an armorer, have risen to the helm in their respective commonwealths? It is only in pure monarchies or pure aristocracies that such talents and such virtues are usually wasted in empty air.

Your other arguments *ad homines* are artful, but not flattering to those whom they are designed to captivate. The livery of LONDON cannot possibly repine at seeing other men rescued from the tyranny of laws made by persons not deputed by them; unless you
mean

mean to suggest, that they esteem their *votes* an article of trade, and wish to establish a *monopoly* of them: but, when the ships of *America* shall sail every month into their river, they will not need a traffick so disgraceful as that, which you impute to them, and which they must ever disclaim with indignation.

Is it not provoking, that, after citing *Junius* to show, that the house of *Lords* could not constitutionally take an active part in defining the right of electing the *Commons*, you should adduce the *Journals of the Lords* as an authority on the very point?

In regard to your fine reasoning on the *identity* of the right to *chuse*, and to *be chosen*, it admits of an easy answer. The only motive for requiring any qualification, as to *property*, either in a *voter* or a *candidate*, is to prevent those from *electing*, who are too indigent to resist a bribe from the candidate, and those from *being elected*, who are too necessitous to refuse a bribe from the court; but, as the temptation must be greater in the second case, the qualification ought to be proportionably greater; and, though the choice of the elector be restrained, yet it is a restriction, which the spirit of our constitution justly demands for the general good.

That we may part friends, let me advise you, Sir, and all those, who support your principles, to abstain from contending against the petitioners on the broad ground of *reason*, where you must inevitably

be defeated, or on the glorious field of the *constitution*, where you must be instantly disarmed: it will be fairer and safer for you all, either in parliament or out of it, to declare with boldness, that you will not hear of *any change*; that, vanquished, you will not yield, and, confuted, you will not be convinced; that you laugh at honour and integrity, and say to *Corruption*, “thou art our sister.” I shall then beg pardon, and confess, that, if I had known her to be so nearly related to you, I would have refrained from speaking ill of the lady to your face: it will then be no wonder, that you are so warm an advocate for *family boroughs*.

I will now close my letter, by way of return for your *significant* sentence from lord *Shaftesbury*, with a fair epitome of a late publication, entitled, *A Dialogue on the Actual State of Parliament*, which is really the most laughable and whimsical thing of the kind I ever met with.

The substance of the piece is this: “that *Montesquieu* was an idiot, and *Blackstone* an ass, for
 “imagining that our *English* government was composed of three *distinct* powers, the commons, the
 “lords, and the king, distributed in the manner
 “which they represent; that it consists, indeed, of
 “three powers, but that all are concentrated in the
 “house of Commons, where the king appears by his
 “ministers and their train, and the lords by their
 “borough-members, and where the *actual harmony*
 “ of

“ of the constitution is to be found, while the house
 “ of peers and the crown retain respectively their
 “ *judicial and executive* powers, but, as branches of
 “ the *legislative*, are wholly absorbed in one common
 “ vortex.”

Surely this is a *new* system of REPRESENTATION !

The writer gives us his opinion, *that all this is just as it ought to be*; that *any change* would break this *harmonious* union; that *vices* are frequently innocent, sometimes beneficial; and that, if we are wise, we shall proceed in the old political fugue, alternately *corrupting and corrupted, debasing and debased*.

“ O judgement, thou art fled to brutish beasts,

“ And MAN has lost his reason.”

I am, &c.

12 SE 63

